# IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**SPECIAL CIVIL APPLICATION No. 6763 of 1999**

**For Approval and Signature:**

**HON'BLE MR JUSTICE KS JHAVERI**

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

**BHAGINI SAMAJ KUTUMB SALAH KENDRA, THROUGH EX-PRESIDENT - Petitioner(s)**

**Versus**

**KIRTIBEN HASMUKHBHAI DESAI - Respondent(s)**

==========

**Appearance :**

MR BR PARIKH for Petitioner No(s).: 1.

MRS SANGEETA N PAHWA for Respondent No(s).: 1.

==========

**CORAM :HON'BLE MR JUSTICE KS JHAVERI**

**Date : 30/06/2005**

**ORAL JUDGMENT**

1. This petition is directed against the order dated 29th September, 1992 passed by the Labour Court, Kalol in Reference [L.C.K.] No. 174 of 1986 whereby the Labour Court has directed the petitioner institution to reinstate the respondent workman on his original post with continuity of

service and back wages and also against the order dated 1st May, 1998 passed by the Labour Court, Kalol in Misc. Application No. 14 of 1984, whereby the said application was dismissed and the order passed in Reference was confirmed.

2. The short facts of the case are that the respondent was appointed by the petitioner institution as a Social Worker for a temporary period of six months i.e. from 12.7.1985 to 11.1.1986. Thereafter she was relieved from the service w.e.f. 18.11.1985.

2.1. Being aggrieved by the said action of the petitioner,institution the respondent raised an industrial dispute which was ultimately referred to the Labour Court for adjudication. The Labour Court after considering the materials produced before it, passed an ex-parte award directing the petitioner to reinstate the respondent on his original post with continuity of service and back wages. Being aggrieved by the ex-parte award, the petitioner preferred Misc. Application No. 14 of 1994, before the Labour Court, which also came to be rejected vide order dated 1st May, 1998. Hence, this petition.

3. Mr. Parikh learned advocate for the petitioner has contended that the petitioner institution is closed since March, 1986 pursuant to letter dated 11th March, 1986 received from the Deputy Director, Social Security

Department, at annexure-D to the petition and, therefore, the question of reinstatement in service shall not survive.

4. I have heard the learned counsel for the parties and perused the documents placed on record. Since the petitioner institution is closed, I am of the opinion that no fruitful purpose would be served by confirming the order of reinstatement with continuity in service. The only question which is required to be considered in this petition is with regard to back wages. Looking to the peculiar facts and circumstances of the case, it would be appropriate to grant a lump sum amount by way of compensation to the respondent in lieu of back wages. In my opinion, an amount of Rs.25,000=00 by way of compensation towards the full and final settlement of the impugned award of the Labour Court, would be sufficient.

4.1. In above view of the matter, the impugned award of the Labour Court is modified to the extent that the petitioner institution is directed to deposit an amount of Rs.25,000=00 [Rs. Twenty Five Thousand only] in the Registry of this Court within a period of four weeks from date of receipt of writ of this order, towards the full and final settlement of the award. On depositing the said amount, the office is directed to pay the said amount to the respondent. It is clarified that the aforesaid amount shall be towards the full and final settlement of the impugned award. The petition stands disposed of accordingly. Rule is made absolute to the aforesaid extent with no order as to

costs.

**[K.S. JHAVERI, J.]**

/phalguni/